



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2561

DATE SCANNED 2-12-13

SCANNER NO. 2

SCAN OPERATOR AmP

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2012 SEP 11 PM 1:12

September 11, 2012

MEMORANDUM

**SENSITIVE**

TO: The Commission

THROUGH: Alec Palmer  
Staff Director

FROM: Patricia C. Orrock  
Chief Compliance Officer

Debbie Chacona  
Assistant Staff Director  
Reports Analysis Division

BY: Jodi Winship/Sari Pickeral  
Compliance Branch

SUBJECT: Reason To Believe Recommendation – 2012 July Quarterly Report for the  
Administrative Fine Program

Attached is a list of political committees and their treasurers who failed to file the 2012 July Quarterly Report in accordance with 2 U.S.C. 434(a). The 2012 July Quarterly Report was due on July 15, 2012.

The committees listed in the attached RTB Circulation Report either failed to file the report, no more than thirty (30) days after the due date (considered a late filed report), or filed the report more than thirty (30) days after the due date (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 CFR 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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Federal Election Commission  
Reason to Believe Circulation Report  
2012 JULY QUARTERLY Not Election Sensitive 07/15/2012 H S\_P\_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2538	C00506295	BICKNELL FOR CONGRESS	BICKNELL, HUNTER	JAMES R. SHAW, JR.	\$121,335	0	8/3/2012	19	\$34,201	\$580
2539	C00020453	CASS COUNTY REPUBLICAN CENTRAL COMMITTEE		TONY P. KEY	\$100,231	1	8/9/2012	25	\$8,064	\$225
2540	C00511311	DAVE SITTON FOR CONGRESS	SITTON, DAVE	DAVID KATSEL	\$403,582	0		Not Filed	\$403,582 (est)	\$9,900
2541	C00500173	DAVID MCINTOSH FOR INDIANA	MCINTOSH, DAVID MARTIN	JACKIE M. BENNETT, JR.	\$1,733,077	0	7/31/2012	16	\$575,917	\$6,500
2542	C00501072	DEAN YOUNG FOR CONGRESS COMMITTEE	YOUNG, LARRY DEAN JR	HUGH R. PARJUE	\$468,916	0		Not Filed	\$117,229 (est)	\$4,950
2543	C00505628	FRIENDS OF CHRIS GARNER	GARNER, CHRISTOPHER JOHN	BARBARA S. SMALL	\$120,085	0		Not Filed	\$120,085 (est)	\$4,950
2544	C00495119	FRIENDS OF HEATHER MCITEER	MCITEER, HEATHER	MERCIDEES MCITEER	\$671,360	0		Not Filed	\$134,272 (est)	\$4,950

2547	C00497644	JIMMIE MOORE FOR CONGRESS	MOORE, JIMMIE SEE	GAIL A. CHINN-PRATT	\$328,232	0		Not Filed	\$82,058 (est)	\$3,850
2548	C00500827	JOHN LEE FOR CONGRESS	LEE, JOHN JAY	RYANN PATRICK-SHELL JUDEN	\$138,309	0		Not Filed	\$46,103 (est)	\$990
2549	C00514489	KENNETH SANDERS FOR CONGRESS CAMPAIGN	SANDERS, KENNETH	ESQUE SANDERS, JR	\$156,338	0		Not Filed	\$52,113 (est)	\$2,970
2551	C00293100	NAADAC THE ASSOCIATION FOR ADDICTION PROFESSIONALS		ALVIN FELICIANO	\$103,032	0	8/23/2012	Not Filed	\$14,149	\$550
2552	C00413567	NATIONAL ASSOCIATION OF FARM SERVICE AGENCY COUNTY OFFICE EMPLOYEES INC PPC AKA NASCOE PAC		ROBERT L. REDDING, JR.	\$154,216	0	8/8/2012	24	\$33,826	\$680
2553	C00192849	PLUMBERS AND PIPEFITTERS LOCAL UNION 74		MARK R. PERMAR	\$109,945	1	8/2/2012	18	\$15,813	\$250

2556	C00467761	SUE LOWDEN FOR U S SENATE	LOWDEN, SUE	BOB BEERS	\$273,273	2		Not Filed	\$54,655 (est)	\$4,455
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AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2557	C00507772	SYLVIA ROMO FOR CONGRESS	ROMO, SYLVIA S	LARRY BENSON	\$108,265	0		Not Filed	\$54,133 (est)	\$2,970
2558	C00503342	TOM ENGEL FOR CONGRESS COMMITTEE	ENGEL, TOM	RICHARD VACCARIELLO	\$385,678	0		Not Filed	\$192,839 (est)	\$6,050
2559	C00466011	TRUST WOMEN PAC		REYNOLDS-TIFFANY	\$175,617	0		Not Filed	\$35,123 (est)	\$990
2560	C00430686	WEBB FOR SENATE	WEBB, JAMES H JR	RICHARDSON INGRID MORROY	\$257,207	0		Not Filed	\$51,441 (est)	\$2,970
2561	C00509778	WIELAND 2012	WIELAND, RICHARD E	ROBERT W. MERKLE	\$569,527	0		Not Filed	\$569,527 (est)	\$11,000

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation - 2012 )  
July Quarterly Report for the )  
Administrative Fine Program: )  
BICKNELL FOR CONGRESS, and ) AF# 2538  
JAMES R SHAW JR as treasurer; )  
CASS COUNTY REPUBLICAN ) AF# 2539  
CENTRAL COMMITTEE, and TONY P )  
KEY as treasurer; )  
DAVE SITTON FOR CONGRESS, and ) AF# 2540  
DAVID KATSEL as treasurer; )  
DAVID MCINTOSH FOR INDIANA, and ) AF# 2541  
JACKIE M BENNETT JR as treasurer; )  
DEAN YOUNG FOR CONGRESS ) AF# 2542  
COMMITTEE, and HUGH R PARDUE as )  
treasurer; )  
FRIENDS OF CHRIS GARNER, and ) AF# 2543  
BARBARA S SMALL as treasurer; )  
FRIENDS OF HEATHER MCTEER, and ) AF# 2544  
MERCIDEES MCTEER as treasurer; )

JIMMIE MOORE FOR CONGRESS, and ) AF# 2547  
CHINN-PRATT, GAIL A. as treasurer; )  
JOHN LEE FOR CONGRESS, and ) AF# 2548  
JUDEN, RYANN PATRICK-SHELL as )  
treasurer; )  
KENNETH SANDERS FOR CONGRESS ) AF# 2549  
CAMPAIGN, and ESQUE SANDERS JR )  
as treasurer; )

NAADAC THE ASSOCIATION FOR ) AF# 2551  
ADDICTION PROFESSIONALS, and )  
ALVIN FELICIANO as treasurer; )

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NATIONAL ASSOCIATION OF FARM ) AF# 2552  
SERVICE AGENCY COUNTY OFFICE )  
EMPLOYEES INC PPC AKA NASCOE )  
PAC, and ROBERT L REDDING JR as )  
treasurer; )  
PLUMBERS AND PIPEFITTERS LOCAL ) AF# 2553  
UNION 74, and MR MARK R PERMAR as )  
treasurer; )

SUE LOWDEN FOR U S SENATE, and ) AF# 2556  
BOB BEERS as treasurer; )  
SYLVIA ROMO FOR CONGRESS, and ) AF# 2557  
LARRY BENSON as treasurer; )  
TOM ENGEL FOR CONGRESS ) AF# 2558  
COMMITTEE, and VACCARIELLO, )  
RICHARD MR. as treasurer; )  
TRUST WOMEN PAC, and REYNOLDS- ) AF# 2559  
RICHARDSON, TIFFANY as treasurer; )  
WEBB FOR SENATE, and INGRID ) AF# 2560  
MOERROY as treasurer; )  
WIELAND 2012, and ROBERT W ) AF# 2561  
MERKLE as treasurer; )

CERTIFICATION

I, Shelley E. Garr, Deputy Secretary of the Federal Election Commission, do hereby certify that on September 12, 2012 the Commission took the following actions on the Reason To Believe Recommendation - 2012 July Quarterly Report for the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated September 11, 2012, on the following committees:

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AF#2538 Decided by a vote of 6-0 to: (1) find reason to believe that BICKNELL FOR CONGRESS, and JAMES R SHAW JR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2539 Decided by a vote of 6-0 to: (1) find reason to believe that CASS COUNTY REPUBLICAN CENTRAL COMMITTEE, and TONY P KEY as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2540 Decided by a vote of 6-0 to: (1) find reason to believe that DAVE SITTON FOR CONGRESS, and DAVID KATSEL as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2541 Decided by a vote of 6-0 to: (1) find reason to believe that DAVID MCINTOSH FOR INDIANA, and JACKIE M BENNETT JR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2542 Decided by a vote of 6-0 to: (1) find reason to believe that DEAN YOUNG FOR CONGRESS COMMITTEE, and HUGH R PARDUE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2543 Decided by a vote of 6-0 to: (1) find reason to believe that FRIENDS OF CHRIS GARNER, and BARBARA S SMALL as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2544 Decided by a vote of 6-0 to: (1) find reason to believe that FRIENDS OF HEATHER MCTEER, and MERCEDES MCTEER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#2547 Decided by a vote of 6-0 to: (1) find reason to believe that JIMMIE MOORE FOR CONGRESS, and CHINN-PRATT, GAIL A. as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2548 Decided by a vote of 6-0 to: (1) find reason to believe that JOHN LEE FOR CONGRESS, and JUDEN, RYANN PATRICK-SHELL as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2549 Decided by a vote of 6-0 to: (1) find reason to believe that KENNETH SANDERS FOR CONGRESS CAMPAIGN, and ESQUE SANDERS JR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2551 Decided by a vote of 6-0 to: (1) find reason to believe that NAADAC THE ASSOCIATION FOR ADDICTION PROFESSIONALS, and ALVIN FELICIANO as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate



letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2552 Decided by a vote of 6-0 to: (1) find reason to believe that NATIONAL ASSOCIATION OF FARM SERVICE AGENCY COUNTY OFFICE EMPLOYEES INC PPC AKA NASCOB PAC, and ROBERT L REDDING JR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2553 Decided by a vote of 6-0 to: (1) find reason to believe that PLUMBERS AND PIPEFITTERS LOCAL UNION 74, and MR MARK R PERMAR as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2556 Decided by a vote of 6-0 to: (1) find reason to believe that SUE LOWDEN FOR U S SENATE, and BOB BEERS as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2557 Decided by a vote of 6-0 to: (1) find reason to believe that SYLVIA ROMO FOR CONGRESS, and LARRY BENSON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#2558 Decided by a vote of 6-0 to: (1) find reason to believe that TOM ENGEL FOR CONGRESS COMMITTEE, and VACCARIELLO, RICHARD MR. as treasurer

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violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2559 Decided by a vote of 6-0 to: (1) find reason to believe that TRUST WOMEN PAC, and REYNOLDS-RICHARDSON, TIFFANY as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2560 Decided by a vote of 6-0 to: (1) find reason to believe that WEBB FOR SENATE, and INGRID MORROY as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2561 Decided by a vote of 6-0 to: (1) find reason to believe that WIELAND 2012, and ROBERT W MERKLE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

September 13, 2012  
Date

Shelley E. Garr  
Shelley E. Garr  
Deputy Secretary of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

September 13, 2012

Robert W. Merkle, in official capacity as Treasurer  
Wieland 2012  
P.O. Box 22  
Redding, CT 06876

C00509778  
AF#: 2561

Dear Mr. Merkle:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a July Quarterly Report of Receipts and Disbursements every calendar year. This report, covering the period through June 30th, shall be filed no later than July 15th. 2 U.S.C. § 434(a). Records at the Federal Election Commission ("FEC") indicate that this report was not filed within thirty (30) days of the due date. You should file this report if you have not already done so.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On September 12, 2012, the FEC found that there is reason to believe ("RTB") that Wieland 2012 and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before July 15th. Based on the FEC's schedules of civil money penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$11,000. Please see the attached copy of the Commission's administrative fine regulations at 11 CFR §§ 111.30-111.55. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 CFR § 111.34. Your payment of \$11,000 is due within forty (40) days of the finding, or by October 22, 2012, and is based on these factors:

Sensitivity of Report: Not Election Sensitive  
Level of Activity: \$569,527  
Number of Days Late: Not Filed  
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street,

NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or October 22, 2012. 11 CFR § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 CFR § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 CFR § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 CFR § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 CFR § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 CFR § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Wieland 2012 and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 CFR § 111.51(a)(2).

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 CFR § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickeral in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,

*Carole C. Hunter*

Caroline C. Hunter  
Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 CFR § 111.43, the amount of your civil money penalty calculated at RTB is \$11,000 for the 2012 July Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by October 22, 2012. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Wieland 2012

FEC ID#: C00509778

AF#: 2561

PAYMENT DUE DATE: October 22, 2012

PAYMENT AMOUNT DUE: \$11,000

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# FEC OFFICE OF ADMIN REVIEW

2012 OCT 22 AM 9: 58

Ms. Sari Pickerall  
Federal Election Commission  
Office of Administrative Review  
999 E. Street NW  
Washington, DC 20463  
VIA FACSIMILIE:  
202-219-0174

10/22/2012

Cc: Office of Administrative Review  
VIA FACSIMILIE:  
202-208-1574

Re: Challenge to RTB Finding AF#: 2561, Committee #C00509778

Dear Ms. Pickerall,

I am in receipt of your letter dated September 13, 2012 regarding the above-referenced RTB finding and proposed civil money penalty against Wieland 2012 and myself, in my official capacity as treasurer for the campaign. The RTB Finding seeks to assess an \$11,000 fine based upon what I believe are assumptions made by the Commission which do not reflect the facts. In addition there are mitigating circumstances which, when taken into context with the facts, will merit dismissal of the administrative fine and proposed penalty.

I would like to first set the context of the campaign. Mr. Wieland was in his early eighties when he sought the nomination of his party so that he could run for Congress. This being his first political endeavor, and likely as a result of his advanced age, Mr. Wieland faced a united opposition from his own party – local and state party leaders as well as local and state elected officials. Mr. Wieland received no organizational support, and external fundraising was practically non-existent. In an attempt to prove he was a viable candidate, he personally contributed 98.13% of the total \$540,724 raised prior to the state convention in May, 2012.

While the party was eager to take his money, and in spite of his efforts, Mr. Wieland secured only one (1) delegate vote out of 240, failing to even qualify for a primary. Upon losing at the convention, Mr. Wieland returned to his private life and tried to put politics behind him. In so doing, he neglected to check the P.O. Box established for the campaign.

Based on the contents of the P.O. Box, the FEC made one confirmed attempt to reach the campaign following the July 15<sup>th</sup> Quarterly filing deadline. A letter dated July 31, 2012, postmarked August 1<sup>st</sup>, 2012, notifying the campaign of a failure to file was found last week when the box was opened. There were two additional notifications of Express Mail attempted deliveries – one for September 14, 2012, and the second for September 20, 2012. Neither lists a sender.

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As Treasurer, I received the first call from the Commission on my cell phone on September 21, 2012, notifying me of the failure to file the July 15<sup>th</sup> Quarterly Report, the RTB finding and the proposed fine even though this was the first communication I actually received from the Commission. I immediately filed the quarterly report, and subsequently filed the termination report pending the outcome of this matter.

Addressing the RTB Finding and proposed civil penalty, the following facts affect the level of the fine, and present grounds for reduction and/or dismissal of the fine:

**1. Fine is calculated based upon an incorrectly assumed Level of Activity of \$569,527**

For the Quarter ended June 30, 2012, per the July 15 Quarterly Report filed on September 21, 2012, the actual activity is as follows:

- a. Individual Contributions: \$75
- b. Operating Expenditures: \$52,023.52
- c. Refund of Candidate's Individual Contributions: \$450,000
- d. Other Disbursements \$2,700

Excluding the \$450,000 disbursement, which was Mr. Wieland refunding some of the contributions he personally contributed to the campaign, the majority of the activity was related to "meet & greet" style events, paid campaign staff, and marketing efforts. \$2,500 of the Other Disbursements were the result of individual campaign contributions being returned for insufficient funds – an event outside of Mr. Wieland's control.

The actual activity level based on this filing is only \$52,298.52, which, according to the Online FEC Administrative Fine Calculator results in an administrative fine of \$2,970.00, if one needed to be assessed.

**2. Mitigating circumstances – First and Only Offense**

There was one prior report for the campaign, and it was filed timely. No other offenses existed for the campaign.

**3. Mitigating circumstances – Non Election Sensitive Report**

Mr. Wieland sought his candidacy only through the date of his party's state convention. The delegates responsible for vetting and nominating a candidate were well versed in Mr. Wieland's campaign finances due to the small district, intense scrutiny the party brought to bear on the process, and the prior timely filed Quarterly Report.

Mr. Wieland's inability to raise meaningful contributions in his home District was evidenced in the previously filed report, and from the knowledge that he had contributed over 98% of his campaign's funds personally.

**4. Mitigating circumstances – Immediate Remedy**

13092682157



Upon receiving the phone call from you, I immediately filed the delinquent report, and subsequently filed the termination report to ensure no further penalties were incurred and that no additional filing deadlines were missed.

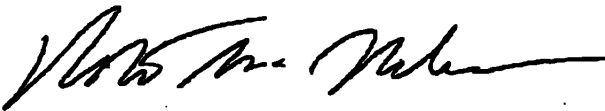
**5. Mitigating circumstances – No Further Activity**

Mr. Wieland has decided to return to private life full time, and harbors no further political aspirations.

Based on the above, I respectfully request that this matter be dismissed. Barring an outright dismissal, or referral to the ADR program, I would request that the proposed fine be adjusted to the lesser amount of \$2,970.00

I await your response, and look forward to an expeditious resolution to this matter. Please do not hesitate to contact me via any method below should you have any questions or wish to discuss.

Cordially,



10/22/2012

Robert W. Merkle, in my official capacity as  
Treasurer, Wieland 2012  
Committee #C00509778

Home Address:

Wilton, CT 06897

13092682158



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

October 22, 2012

Robert Merkle, in official capacity as Treasurer  
Wieland 2012  
P.O. Box 22  
Redding, CT 06876

C00509778  
AF#: 2561

Dear Mr. Merkle:

On October 22, 2012, the Commission received your written response ("challenge") which is being reviewed by the Office of Administrative Review. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "Dayna C. Brown".

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

cc: 404 Ridgefield Road  
Wilton, CT 06897

13092682159

**Date: October 23, 2012**

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW  
CHALLENGE RECEIVED**

**AF#: 2561**

**Committee Name: Wieland 2012**

**Committee ID#: C00509778**

**Committee Address (if different than in RTB letter): N/A**

**Treasurer Name (if different than in RTB finding): N/A**

**Attachments:**

**Copy of RTB Circulation Report, dated September 11, 2012 and RTB Certification, dated September 13, 2012 (Y/N): Previously Forwarded**

**Attachment #: N/A**

**Proof of Delivery (to be forwarded at later date if not yet received) (Y/N): Y**

**Attachment #: 1**

**Other Relevant Telecoms (Y/N): N**

**Attachment #: N/A**

**Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N**

**Attachment #: N/A**

**RAD Staff Declaration (Y/N): Y**

**-2012 July Quarterly Report Prior Notice, dated June 21, 2012.**

**-Non-Filer Letter, dated July 31, 2012.**

**-RTB Letter, dated September 13, 2012.**

**Attachment #: 3**

**Other RAD Information: (Y/N): Y**

**- Memo to File, dated September 13, 2012**

**Attachment#: 4**

13092682160



## Delivery Notification

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

**Tracking Number:** 1Z WF5 860 A2 9536 247 8  
**Reference Number(s):** RAD, 2561  
**Service:** NEXT DAY AIR  
**Special Instructions:** ADULT SIGNATURE REQUIRED  
**Shipped/Billed On:** 09/21/2012  
**Delivered On:** 09/24/2012 9:47 A.M.  
**Delivered To:**

WILTON, CT, US 06897

**Signed By:** MERKLE

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**Location:** RESIDENTIAL

Thank you for giving us this opportunity to serve you.

Sincerely,  
UPS

Tracking results provided by UPS: 09/27/2012 9:10 A.M. ET

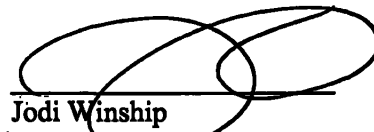
Attachment 1

[https://www.campusship.ups.com/campus\\_track/processPOD?lineData=NO...](https://www.campusship.ups.com/campus_track/processPOD?lineData=NO...) 9/27/2012

13092682161

## DECLARATION OF JODI WINSHIP

1. I am the Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Wieland 2012:
  - A) Prior Notice, dated June 21, 2012, referencing the 2012 July Quarterly Report (sent via electronic mail to: ROBM@WIELAND2012.COM);
  - B) Non-Filer Letter, dated July 31, 2012, referencing the 2012 July Quarterly Report;
  - C) Reason-to-Believe Letter, dated September 13, 2012 referencing the 2012 July Quarterly Report.
3. I hereby certify that I have searched the Commission's public records and find that Wieland 2012 filed the 2012 July Quarterly Report with the Commission on September 21, 2012.
4. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 23<sup>rd</sup> day of October, 2012.

  
Jodi Winship  
Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



# JULY QUARTERLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES  
PARTIES AND PACS

June 21, 2012

## CURRENT REPORT DUE

REPORT	CLOSE OF BOOKS <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
July Quarterly	06/30/12	07/15/12	07/15/12 <sup>2</sup>

## REPORTING SCHEDULE FOR REMAINDER OF 2012

REPORT	CLOSE OF BOOKS <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
October Quarterly	09/30/12	10/15/12	10/15/12
Pre-General <sup>3</sup>	10/17/12	10/22/12	10/25/12
Post-General	11/26/12	12/06/12	12/06/12
Year-End	12/31/12	01/31/13	01/31/13

### Supplemental Filing Information is available:

- Congressional Committees
- Parties and PACs

<sup>1</sup> A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

<sup>2</sup> Notice that this filing date falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's (or for committees supporting only Senate candidates, the Secretary of Senate's) close of business on the last business day before the deadline.

<sup>3</sup> **Parties and PACs:** required only if committee makes contributions or expenditures in connection with the general election during the reporting period. 11 CFR 104.5(e)(1)(ii).  
**Congressional Committees:** the principal campaign committee of a candidate who participates in the general election must file pre-and post-general election reports. 11 CFR 104.5(a)(2).

## 2012 SUPPLEMENTAL FILING INFORMATION CONGRESSIONAL COMMITTEES

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

### WHO MUST FILE

Principal campaign committees of congressional candidates <sup>1</sup> (including unopposed candidates and candidates whose names do not appear on the ballot) must file Quarterly Reports in 2012. <sup>2</sup>

Campaigns that raise or spend more than \$5,000 for the 2012 election cycle (and thus trigger registration and reporting requirements) must file quarterly reports throughout 2012, even if the candidate plans to retire, withdraws from the race prior to the primary election, loses the primary or drops out of the race prior to the general election. See 11 CFR 104.5(a)(2).

Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

### METHODS OF FILING REPORTS

#### Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e). See also 11 CFR 104.18 and 100.19.

- Web Page: Electronic Filing Page
- Campaign Guide for Congressional Candidates and Committees (Candidate Guide), pp. 83-86 [PDF]

#### Paper Filing - Meeting the Filing Deadline

Paper Report filing options -- Registered, Certified or Overnight or First Class Mail.

See 11 CFR 104.5(e). See also 11 CFR 100.19.

- Web Page: Link to Paper Forms (for downloading and printing)
- Candidate Guide, p. 82 [PDF]

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<sup>1</sup> Generally, an individual becomes a candidate for federal office (and thus triggers registration and reporting obligations) when his or her campaign exceeds \$5,000 in either contributions or expenditures. If the campaign has not crossed the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a). See also 11 CFR 104.5(a).

<sup>2</sup> If a candidate has more than one authorized committee, the principal campaign committee files a consolidated report on Form 3Z [PDF]. See 11 CFR 104.3(f).

## PRE- AND POST-ELECTION REPORTS

The principal campaign committee of any candidate participating in a 2012 state primary, nominating convention or runoff election -- even if unopposed -- must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The principal campaign committee of a candidate who participates in the general election must file pre- and post-general election reports. See 11 CFR 104.5(a)(2).

- Web Page: 2012 Congressional Pre-Primary Reporting Dates
- The Record:
  - FEC Record Blog: Reporting
  - January 2012 issue [PDF]
- Candidate Guide, pp. 81-82 [PDF]

## 48 HOUR NOTICES OF CONTRIBUTIONS

The principal campaign committee must file notices if any authorized committees receive any contribution (including in-kind gifts or advances of goods or services; loans from the candidate or other non-bank sources; and guarantees or endorsements of bank loans to the candidate or committee) of \$1,000 or more per source, during the period less than 20 days but more than 48 hours before any election in which the candidate is running. See 11 CFR 104.5(f).

The notices must reach the appropriate federal filing office within 48 hours of the committee's receipt of the contribution(s). Campaign committees that file electronically MUST submit their 48-hour notices electronically. See 11 CFR 104.5(f).

- Web Page: Electronic Filing Page
- Web Page: Link to Paper Forms (for downloading and printing)
- Web Page: Link to Web Form 6 (for online submission)
- Form 6 Fax numbers
  - Senate campaigns (Secretary of the Senate): (202) 224-1851
  - House Campaigns (FEC): (202) 219-0174
- Campaign Guide: Candidate Guide, p. 81 [PDF]

## 2012 REPORTING SCHEDULE

- Web Page: 2012 Reporting Dates Page
- The Record:
  - FEC Record Blog: Reporting
  - January 2012 issue [PDF]
- Candidate Guide, p. 83 [PDF]



## COMPLIANCE

### Treasurer Responsibility

Committee Treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings [PDF]
- Candidate Guide, p. 7-9 [PDF]

### Administrative Fine Program

Political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- and non-filers).<sup>3</sup> See generally, 11 CFR Part 111 Subpart B. See also 11 CFR 111.43.

- Web Page: Administrative Fine Program
- Candidate Guide, pp. 82-83 [PDF]

## DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Campaign committees must file FEC Form 3L [PDF] if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,700 during the applicable reporting period (see page 1 of this notice). See 11 CFR 104.22 and 11 CFR 110.17(f).

- The Record: March 2009 issue [PDF]
- Candidate Guide, Appendix F, pp. 155-161 [PDF]

## IMPORTANT FILING INFORMATION - PAPER FILERS

In response to the 2001 anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal agencies, including the FEC and the Secretary of the Senate.<sup>4</sup> This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the FEC may want to consider submitting their reports by some means other than U.S. mail. Alternative methods include electronic filing, overnight mail or delivery service, and hand delivery.

<sup>3</sup> Penalties for late- or non-filing of 48-hour notices are based on the amount of contributions not timely disclosed. As a result, these penalties may exceed \$17,600, even for first-time violations.

<sup>4</sup> Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more information on filing reports via US mail.

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**FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100**

## 2012 SUPPLEMENTAL FILING INFORMATION PACs AND PARTY COMMITTEES

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

### WHO MUST FILE

All Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) must file either quarterly or monthly reports in 2012. See 11 CFR 104.5(c). Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

### METHODS OF FILING REPORTS

#### Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e). See also 11 CFR 104.18 and 100.19.

- Web Page: Electronic Filing Page
- Campaign Guide: Nonconnected Committees (Nonconnected), pp. 51-53 [PDF]; Corporations and Labor Organizations (SSF), pp. 49-51 [PDF]; Political Party Committees (Party), pp. 69-71 [PDF].

#### Paper Filing -- Meeting the Filing Deadline

Paper report filing options -- Registered, Certified or Overnight or First Class Mail. See 11 CFR 104.5(e). See also 11 CFR 100.19.

- Web Page: Link to Paper Forms (for downloading and printing)
- Campaign Guide: Nonconnected, pp. 47-48 [PDF]; SSF, pp. 45-46 [PDF]; Party, p. 65 [PDF].

### CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to quarterly) who wish to do so must notify the Commission in writing and may change their filing frequency no more than once per calendar year. See 11 CFR 104.5(c).

- Web Page: Filing Frequency by Type of Committee
- Campaign Guide: Nonconnected, p. 51 [PDF]; SSF, p. 49 [PDF]; Party, p. 67 [PDF].

### 2012 REPORTING SCHEDULE

- Web Page: 2012 Reporting Dates Page
- The Record:
  - FEC Record Blog: Reporting
  - January 2012 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

## PRE-ELECTION REPORTING

Quarterly filing committees that make contributions or expenditures (including independent expenditures) in connection with an election must also file a Pre-Election Report, if the activity was not previously reported. See 11 CFR 104.5(c)(1)(ii).

- Web Page: 2012 Congressional Pre-Primary Reporting Dates Page
- The Record:
  - FEC Record Blog: Reporting
  - January 2012 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

## COMPLIANCE

### Treasurer Responsibility

Committee treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceeding [PDF]
- Campaign Guide: Nonconnected, pp. 3-4 [PDF]; SSF, pp. 1-2 [PDF]; Party, pp. 6-7 [PDF].

### Administrative Fine Program

Failure to file reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- or non-filers). See 11 CFR 111.43(b). See generally, 11 CFR Part 111 Subpart B. See also 11 CFR 111.43.

- Web Page: Administrative Fine Program Page
- Campaign Guide: Nonconnected, pp. 48-49 [PDF]; SSF, p. 46 [PDF]; Party, p. 66 [PDF].

## DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Party committees and Leadership PACs must file FEC Form 3L [PDF] if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,700 during the applicable reporting period (see page 1 of this notice). See 11 CFR 104.22 and 11 CFR 110.17(f).

- The Record: March 2009 issue [PDF]

## 48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in 2012 may have to disclose this activity within 48- or 24-hours based upon the date and amount of the expenditure.

See 11 CFR 104.4(b)(2) and (c). See generally, 11 CFR 104.4.

- Web Page: State-by-state chart of 2012 48- and 24-hour periods for independent expenditures
- Campaign Guide: Nonconnected, pp. 72-74 [PDF]; SSF, pp. 65-67 [PDF]; Party, pp. 87-89 [PDF].

These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate.

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FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 31, 2012

RQ-7

ROBERT W MERKLE, TREASURER  
WIELAND 2012  
PO BOX 22  
REDDING, CT 6876

IDENTIFICATION NUMBER: C00509778

REFERENCE: JULY QUARTERLY REPORT 4/29/2012 - 6/30/2012

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 H STREET, N.W., WASHINGTON, D.C. 20463 FOR HOUSE CANDIDATES, OR THE SECRETARY OF THE SENATE, 232 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. 20510 (MAILING ADDRESS: OFFICE OF PUBLIC RECORDS, P.O. BOX 77578, WASHINGTON, DC 20013-7578), FOR SENATE CANDIDATES. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §184.18. A COPY OF THE REPORT MUST ALSO BE FILED WITH THE SECRETARY OF STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. YOU CAN VERIFY THE COMMISSION'S RECEIPT OF ANY DOCUMENTS SUBMITTED BY YOUR COMMITTEE ON THE FEC WEBSITE AT WWW.FEC.GOV.

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT. DUE TO HEIGHTENED SECURITY SCREENING MEASURES, DELIVERY OF MAIL BY THE US POSTAL SERVICE MAY BE DELAYED. THE COMMISSION RECOMMENDS THAT YOU SUBMIT YOUR REPORT VIA OVERNIGHT DELIVERY OR COURIER SERVICE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT DAVID GARR AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

*Debbie Chacona*

DEBBIE CHACONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION (RAD)

12002502463



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2012 OCT 25 PM 2: 16

**SENSITIVE**

October 25, 2012

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *APC*  
Staff Director

From: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Dayna C. Brown *DCB*  
Reviewing Officer  
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2561 – Wieland 2012 and  
Robert W. Merkle, in official capacity as Treasurer, (C00509778)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

13092682170



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 25, 2012

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2561 – Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer (C00509778)

**Summary of Recommendation**

Make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a \$10,450 civil money penalty.

**Reason-to-Believe Background**

On September 12, 2012, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2012 July Quarterly Report and made a preliminary determination that the civil money penalty was \$11,000 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter, dated September 13, 2012, was mailed to the respondents' address of record by the Reports Analysis Division ("RAD") to notify them of the Commission's RTB finding and civil money penalty. On September 21, 2012, a copy of the RTB letter was mailed to an address provided by the Treasurer. It was successfully delivered on September 24, 2012.

**Legal Requirements**

The Federal Election Campaign Act ("Act") states that the treasurer of a principal campaign committee of a candidate shall file a report for the period ending June 30 no later than July 15. 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(a)(1)(i). Reports electronically filed must be received and validated at or before 11:59 pm Eastern Standard/Daylight Time on July 15 to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5(e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

**Respondents' Challenge**

On October 22, 2012, the Commission received the written response ("challenge") from the Treasurer challenging the RTB finding and penalty for five reasons:

**1. Fine is calculated based on an incorrectly assumed Level of Activity of \$569,527**

The actual level of activity based on this filing is \$52,298.52, which, according to the Commission's online Administrative Fine Calculator results in an administrative fine of \$2,970, if assessed.

**2. Mitigating circumstances – First and Only Offense**

There was one prior report for the campaign and it was filed timely. The campaign has no other offenses.

**3. Mitigating circumstances – Non-Election Sensitive**

The Candidate sought office only through the date of the party's state convention. The delegates responsible for nominating a candidate were well versed in the Candidate's finances, and his inability to raise meaningful contributions in his home district was

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evidenced on his prior report and in the fact that he personally contributed over 98% of the campaign's funds.

**4. Mitigating circumstances -- Immediate Remedy**

Upon receiving a phone call from the Commission, the Treasurer immediately filed the delinquent report, and a subsequent termination report.

**5. Mitigating circumstances -- No Further Activity**

The Candidate has returned to private life full time and has no further political aspirations.

The Treasurer respectfully requests that the matter be dismissed, and barring dismissal, requests that the matter be referred to ADR or the proposed fine reduced to the adjusted lesser amount of \$2,970.

**Analysis**

Although the challenge states that the Candidate failed to qualify for the primary after losing in his party's state convention, and that he subsequently "returned to his private life and put politics behind him," because the respondents did not file a Termination Report on or before July 15, 2012, indicating that the Committee will no longer receive contributions or make disbursements, that there are no outstanding debts or obligations and the purpose for which any residual funds will be used, they were required to file the July Quarterly Report. 11 C.F.R. § 102.3 and 2 U.S.C. § 433(d).

The respondents' RTB letter for the July Quarterly Report was mailed to their address of record, a post office box, on September 13. RAD telecons (written records of telephone conversations) indicate that on September 21, the RAD Compliance Analyst called the Treasurer because the RTB letter had not been retrieved from their box. She advised the Treasurer that they were being fined for failing to file the July Quarterly Report. Commission records indicate that the report was filed later that same day, 68 days late. The challenge contends that the immediate filing of the report after the Analyst's call is grounds for reduction and/or dismissal of the penalty, however, the challenge does not provide a reasonably unforeseen circumstance beyond the respondents' control that prevented them from filing in a timely manner. 11 C.F.R. § 111.35(b)(3).

The Treasurer asserts that this September 21 phone call from the Compliance Analyst was the first communication he received from the Commission concerning the July Quarterly Report. Although 11 C.F.R. § 104.14(d) is clear that the Treasurer shall be personally responsible for the timely filing of reports, the Commission sent courtesy notifications regarding this filing requirement to the respondents before and after the filing deadline, using contact information they provided. On June 21, 2012, the Commission sent the Prior Notice for the 2012 July Quarterly Report to "ROBM@WIELAND2012.COM," the email address listed on their amended Statement of Organization. Following the July 15 filing deadline, on July 16, the Electronic Filing Office ("EFO") sent a notice to "ROBMERKLE2010@GMAIL.COM," informing the respondents that they failed to file the July Quarterly Report. Additionally, the Commission sent a non-filer notice, dated July 31, 2012, to their address of record. The challenge, however, concedes that they did not receive the letter until they opened their post office box the week before their October 22 challenge was submitted.

The challenge contends that an incorrectly assumed level of activity was used to calculate the penalty, and that their actual level of activity for the reporting period was \$52,298.52, excluding the \$450,000 disbursement to the Candidate refunding monies he loaned the campaign.

For purposes of administrative fine penalty calculations, the level of activity for an authorized committee is defined as the total amount of receipts and disbursements for the period covered by the late report. 11 C.F.R. § 111.43(d)(3)(i). 11 C.F.R. § 104.3(b)(4)(iii) requires loan repayments to be disclosed as itemized disbursements, therefore loan repayments are included in the disbursement total used to calculate the level of activity in administrative fine penalty calculations. The Committee did not file the July Quarterly Report before the September 12 RTB finding, therefore an estimated level of activity (\$569,527) was used to calculate the fine. 11 C.F.R. § 111.43(d)(2)(i). The report was filed on September 21 and is considered not filed for purposes of the civil money penalty calculation. 11 C.F.R. § 111.43(e)(1). Their report discloses \$75 in receipts and \$504,723 in disbursements (including the \$450,000 disbursement to the Candidate), resulting in an actual level of activity of \$504,798. Therefore, using the schedule of penalties at 11 C.F.R. § 111.43(a), for respondents with no previous violations, and the level of activity bracket of \$450,000 - \$549,999.99, the civil money penalty is \$10,450  $\times [1 + (.25 \times 0)]$  or \$10,450, reduced from the RTB civil money penalty of \$11,000.

With respect to the Treasurer's request that the case be referred to the Commission's Alternative Dispute Resolution Office ("ADRO"), the administrative fine regulations do not provide for a challenge to be processed through ADRO.

Their challenge fails to address any of the three valid grounds at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. The other issues raised in the challenge, namely: the Candidate's age; lack of party support; the Candidate's largely self-financed campaign due to his inability to raise meaningful contributions; and that this was their first and only offense, also do not fall within the list of defenses enumerated at 11 C.F.R. § 111.35(b). Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$10,450.

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2561 involving Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2561 that Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer, violated 2 U.S.C. § 434(a) and, based on the actual level of activity disclosed on the July Quarterly Report (\$504,798), assess a civil money penalty of \$10,450 (reduced from the RTB civil money penalty of \$11,000); and
- (3) Send the appropriate letter.

Reviewing Officer: Dayna C. Brown

#### **Attachments**

- Attachment 1 – Challenge Received from Respondents
- Attachment 2 –
- Attachment 3 – Declaration from RAD.

Attachment 4 – Declaration from OAR



**DECLARATION OF DAYNA C. BROWN**

- 1) I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
- 2) The 2012 July Quarterly Report, covering the period April 1 through June 30, is due July 15, 2012. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on July 15 to be timely filed.
- 3) It is the practice of the Commission's Information Division to send prior notification of a report's due date to committees and treasurers at their email address of record approximately 3 weeks before the due date.
- 4) I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of:
  - a) Page 1 of the amended Statement of Organization filed by Wieland 2012 and Robert Merkle, in official capacity as Treasurer. According to the Commission's records, the document is dated February 21, 2012, was received February 28, 2012, and lists "ROBM@WIELAND2012.COM" as the Committee's email address; and
  - b) Page 1 of the Summary Page and Pages 3 and 4 of the Detailed Summary Page, electronically filed by Wieland 2012 and Robert Merkle, in official capacity as Treasurer. According to the Commission's records, the report covers the period from April 1 through June 30, 2012, and was received on September 21, 2012. Line 16 lists \$75.00 in total receipts for the period. Line 22 lists \$504,723.52 in total disbursements for the period.
- 5) Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 25<sup>th</sup> day of October, 2012.



Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

13092682174

FEC  
FORM 1

STATEMENT OF  
ORGANIZATION

RECEIVED

2012 FEB 28 AM 7:55

1. NAME OF COMMITTEE (in full)

☐

(Check if name is changed)

Example: If typing, type over the lines

12 FEB 28 AM 7:55

WIELAND 2012

ADDRESS (number and street)

P.O. BOX 22

☐

(Check if address is changed)

REDDING

CT 06876

CITY

STATE

ZIP CODE

COMMITTEE'S E-MAIL ADDRESS (Please provide only one e-mail address)

ROBM@WIELAND2012.COM

☒

(Check if address is changed)

COMMITTEE'S WEB PAGE ADDRESS (URL)

WWW.WIELAND2012.COM

☒

(Check if address is changed)

2. DATE

02 / 21 / 2012

3. FEC IDENTIFICATION NUMBER

C00509778

4. IS THIS STATEMENT

☐

NEW (N)

OR

☒

AMENDED (A)

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

ROBERT MERKLE

Signature of Treasurer

*Robert Merkle*

Date

02 / 21 / 2012

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.

ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

Office  
Use  
Only

For further information contact:  
Federal Election Commission  
Toll Free 800-424-9530  
Local 202-694-1100

FEC FORM 1  
(Revised 02/2009)

13092682175  
12030750371

**FEC  
FORM 3****REPORT OF RECEIPTS  
AND DISBURSEMENTS**  
For An Authorized Committee

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT ▼ Example: If typing, type over the lines. 12FE4M5

WIELAND 2012

ADDRESS (number and street) ▼

PO BOX 22

Check if different  
than previously  
reported. (ACC)

REDDING

CT

06876

2. FEC IDENTIFICATION NUMBER ▼

C C00509778

CITY ▲

STATE ▲

ZIP CODE ▲

STATE ▼ DISTRICT

3. IS THIS REPORT X NEW (N) OR AMENDED (A)

CT 04

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

April 15 Quarterly Report (Q1)

X July 15 Quarterly Report (Q2)

October 15 Quarterly Report (Q3)

January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

Primary (12P)

General (12G)

Runoff (12R)

Convention (12C)

Special (12S)

Election on

in the  
State of

(c) 30-Day POST-Election Report for the:

General (30G)

Runoff (30R)

Special (30S)

Election on

in the  
State of

5. Covering Period 04 01 2012 through 06 30 2012

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Robert Merkle

Signature of Treasurer Robert Merkle

[Electronically Filed]

Date

09 21 2012

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office  
Use  
Only**FEC FORM 3**  
(Revised 02/2003)

# **DETAILED SUMMARY PAGE** of Receipts

PAGE 3 / 16

FEC Form 3 (Revised 12/2003)

Write or Type Committee Name

WIELAND 2012

Report Covering the Period:

From:

04

01

2012

To:

06

30

2012

**I. RECEIPTS****COLUMN A**  
Total This Period**COLUMN B**  
Election Cycle-to-Date**11. CONTRIBUTIONS (other than loans) FROM:****(a) Individuals/Persons Other Than Political Committees**

(i) Itemized (use Schedule A) .....

0.00

8750.00

(ii) Unitemized .....

75.00

1345.00

(iii) TOTAL of contributions

from individuals .....

75.00

10095.00

**(b) Political Party Committees.....**

0.00

0.00

**(c) Other Political Committees**

(such as PACs) .....

0.00

0.00

**(d) The Candidate .....**

0.00

530629.78

**(e) TOTAL CONTRIBUTIONS**

(other than loans)

(add Lines 11(a)(ii), (b), (c), and (d))..

75.00

540724.78

**12. TRANSFERS FROM OTHER**

AUTHORIZED COMMITTEES .....

0.00

0.00

**13. LOANS:****(a) Made or Guaranteed by the**

Candidate.....

0.00

0.00

**(b) All Other Loans.....**

0.00

0.00

**(c) TOTAL LOANS**

(add Lines 13(a) and (b)).....

0.00

0.00

**14. OFFSETS TO OPERATING**

EXPENDITURES

(Refunds, Rebates, etc.) .....

0.00

0.00

**15. OTHER RECEIPTS**

(Dividends, Interest, etc.) .....

0.00

0.00

**16. TOTAL RECEIPTS (add Lines**

11(e), 12, 13(c), 14, and 15)

(Carry Total to Line 24, page 4).....

75.00

540724.78

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# **DETAILED SUMMARY PAGE** of Disbursements

FEC Form 3 (Revised 02/2003)

PAGE 4 / 16

II. DISBURSEMENTS	COLUMN A Total This Period	COLUMN B Election Cycle-to-Date
17. OPERATING EXPENDITURES.....	52023.52	81386.67
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES .....	0.00	0.00
19. LOAN REPAYMENTS:		
(a) Of Loans Made or Guaranteed by the Candidate.....	0.00	0.00
(b) Of All Other Loans .....	0.00	0.00
(c) TOTAL LOAN REPAYMENTS (add Lines 19(a) and (b)).....	0.00	0.00
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees .....	450000.00	450020.00
(b) Political Party Committees .....	0.00	0.00
(c) Other Political Committees (such as PACs).....	0.00	0.00
(d) TOTAL CONTRIBUTION REFUNDS (add Lines 20(a), (b), and (c)).....	450000.00	450020.00
21. OTHER DISBURSEMENTS .....	2700.00	2700.00
22. TOTAL DISBURSEMENTS (add Lines 17, 18, 19(c), 20(d), and 21) ►	504723.52	534106.67

## **III. CASH SUMMARY**

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD .....	511266.63
24. TOTAL RECEIPTS THIS PERIOD (from Line 16, page 3).....	75.00
25. SUBTOTAL (add Line 23 and Line 24) .....	511341.63
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22).....	504723.52
27. CASH ON HAND AT CLOSE OF REPORTING PERIOD (subtract Line 26 from Line 25).....	6618.11

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

October 26, 2012

Robert W. Merkle, in official capacity as Treasurer  
Wieland 2012  
P.O. Box 22  
Redding, CT 06876

C00509778  
AF# 2561

Dear Mr. Merkle:

On September 12, 2012, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Wieland 2012 and you, in official capacity as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2012 12 July Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$11,000 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by the Committee and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 800-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

Attachment

cc: 404 Ridgefield Road  
Wilton, CT 06897

15092682179

# FEC OFFICE OF ADMIN REVIEW

Ms. Dayna Brown

Federal Election Commission

Office of Administrative Review

999 E Street NW

Washington, DC 20463

VIA FACSIMILE (202-208-1574) AND REGULAR MAIL

2012 NOV -6 AM 7:28

November 5, 2012

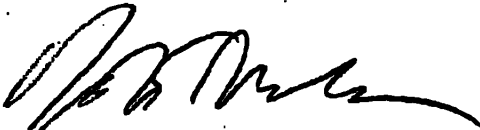
RE: Challenge to RTB finding AF#2561, Committee C00509778

Dear Ms. Brown,

Thank you for your prompt response to my letter. I would like to point out that Mr. Wieland's contribution to his campaign was originally mis-characterized as a loan, and this was subsequently rectified with an amended filing on September 21, 2012.

There were no loan documents associated with his contribution, and no interest was charged. Because this was not a loan repayment, but instead was a return of contribution, should the \$450,000 Mr. Wieland reclaimed still be counted toward the penalty calculation?

Respectfully,



Robert Merkle

In my capacity as Treasurer, Wieland 2012

Committee #C00509778

Wilton CT 06897

13092682180



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 6, 2012

MEMORANDUM

To: The Commission

Through: Alec Palmer  
Staff Director

From: Patricia C. Orrock  
Chief Compliance Officer

Dayna C. Brown *PCO*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2561 – Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer (C00509778)

On September 12, 2012, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2012 July Quarterly Report and also made a preliminary determination that the civil money penalty was \$11,000 based on the schedule of penalties at 11 C.F.R. § 111.43.

On October 22, 2012, the Commission received their written response ("challenge"). After reviewing the challenge, the Reviewing Officer's recommendation ("ROR") dated October 25, 2012, was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and based on the actual level of activity disclosed on the July Quarterly Report (\$504,798), assess a civil money penalty of \$10,450 because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the ROR. 11 C.F.R. § 111.36(f).

On November 6, 2012, the Commission received the written response from the Treasurer who states that while the Candidate's contribution to the campaign was originally mischaracterized as a loan rather than a contribution, they filed an amendment on September 21,

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2012 to rectify this. He asks whether the \$450,000 "reclaimed" by the Candidate still counts toward the penalty calculation since it was a returned contribution rather than a loan repayment.

For purposes of administrative fine penalty calculations, the level of activity for an authorized committee is defined as the total amount of receipts and disbursements covered by the late report. 11 C.F.R. § 111.43(d)(3)(i). 11 C.F.R. § 104.3(b)(2)(v)(A) categorizes itemized offsets to contributions (including contribution refunds) as disbursements, and 11 C.F.R. § 104.3(b)(2)(iii)(A) categorizes the repayment of Candidate loans as disbursements. Therefore, whether the \$450,000 was a refund of a Candidate contribution or loan, it is included in the total disbursement figure used to calculate the level of activity for the administrative fine penalty calculation.

As discussed in the ROR, the respondents' July Quarterly Report discloses \$75 in receipts and \$504,723 in disbursements (including the \$450,000 disbursement to the Candidate), resulting in an actual level of activity of \$504,798. Therefore, using the schedule of penalties at 11 C.F.R. § 111.43(a), for respondents with no previous violations, and the level of activity bracket of \$450,000 - \$549,999.99, the civil money penalty is  $\$10,450 \times [1 + (.25 \times 0)]$  or \$10,450, reduced from the RTB civil money penalty of \$11,000. Therefore, the Reviewing Officer recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$10,450.

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2561 involving Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2561 that Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer, violated 2 U.S.C. § 434(a) and, based on the actual level of activity disclosed on the July Quarterly Report (\$504,798), assess a civil money penalty of \$10,450 (reduced from the RTB civil money penalty of \$11,000); and
- (3) Send the appropriate letter.

Attachment

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) AF 2561  
Wieland 2012 and Robert W. Merkle, in )  
official capacity as Treasurer )

CERTIFICATION

I, Shelley E. Garr, recording secretary of the Federal Election Commission executive session, do hereby certify that on January 08, 2013, the Commission took the following actions in the above-captioned matter:

1. Failed on a vote of 2-3 to:
  - a. Adopt the Reviewing Officer recommendation for AF# 2561 involving Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer, in making the final determination.
  - b. Make a final determination in AF# 2561 that Wieland 2012 and Robert W. Merkle, in official capacity as Treasurer, violated 2 U.S.C. § 434(a) and, based on the actual level of activity disclosed on the July Quarterly Report (\$504,798), assess a civil money penalty of \$10,450 (reduced from the RTB civil money penalty of \$11,000).
  - c. Send the appropriate letter.

Commissioners Bauerly and Walther voted affirmatively for the motion. Commissioners McGahn II, Petersen, and Weintraub dissented. Commissioner Hunter did not vote.

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2. Decided by a vote of 4-1 to:

a. Terminate the proceedings in AF# 2561.

Commissioners McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision. Commissioner Bauerly dissented. Commissioner Hunter did not vote.

Attest:

January 9, 2013  
Date

Shelley E. Garr  
Shelley E. Garr  
Deputy Secretary of the Commission

13092682184



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 8, 2013

VIA OVERNIGHT DELIVERY

Robert Merkle, in official capacity as Treasurer  
Wieland 2012  
P.O. Box 22  
Redding, CT 06876

C00509778  
AF#: 2561

Dear Mr. Merkle:

On September 12, 2012, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Wieland 2012 and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2012 July Quarterly Report. By letter dated September 13, 2012, the Commission sent notification of the RTB finding that included a civil money penalty calculated at RTB of \$11,000 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On October 22, 2012, the Office of Administrative Review received your written response, challenging the RTB finding.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Wieland 2012 and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and based on the actual level of activity disclosed on the July Quarterly Report (\$504,798), assess a civil money penalty of \$10,450 (reduced from the RTB civil money penalty of \$11,000) in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on October 26, 2012.

On November 6, 2012, the Commission received your response. On January 8, 2013, the Commission failed to adopt the Reviewing Officer's recommendations contained in the Final Determination Report (attached). The Commission then voted to terminate the proceedings pursuant to 11 C.F.R. § 111.37(b).

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to

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11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Rhiannon Magruder on our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Ellen L. Weintraub  
Chair

Attachment

13092682186